



DEPARTMENT OF THE NAVY
NAVAL DISTRICT WASHINGTON
1343 DAHLGREN AVE SE
WASHINGTON NAVY YARD DC 20374-5161

5720
Ser N00J/008
January 11, 2023

Via FOIA Online: jacobaaron68@gmail.com

Mr. Jacob A. Ford
11921 N. Woodlea
Waynesboro, PA 17268

Dear Mr. Ford:

SUBJECT: FREEDOM OF INFORMATION ACT REQUEST DON-NAVY-2023-003191

This responds to your Freedom of Information Act (FOIA) request in which you seek copies of your Family Advocacy Program (FAP) case information for case numbers 452555, 456102, and 459430. Your request was received on December 22, 2022 and assigned file number DON-NAVY-2023-003191.

Your request has been processed in accordance with the Privacy Act (PA), 5 U.S.C. § 552a. Per Department of Defense Regulation 5400.11-R ("Department of Defense Privacy Program"), it was also processed under the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

One hundred twenty-nine (129) pages of responsive documents were identified and are enclosed to this letter. This is a partial release. Information related to the other party in the referenced cases, to include name and other personal information, were withheld under exemption (k)(2) of the PA and (b)(6) and (b)(7)(C) of the FOIA. Additionally, certain pieces of personal information such as names and phone numbers of other persons involved in this matter (e.g., counselors) were withheld under exemption (k)(2) of the PA and (b)(6) of the FOIA.

Exemption (k)(2) of the PA allows an agency to withhold investigatory material compiled for law enforcement purposes (other than materials compiled by a criminal law enforcement agency). 5 U.S.C. § 552a(k)(2). Such an exemption may be claimed only if the applicable System of Records Notice (SORN) for the record in question indicates that it may be used. In this case, the applicable SORN (N01752-1, "Family Advocacy Program System") permits exemption (k)(2) to be claimed.

Exemption (b)(6) of the FOIA allows an agency to withhold "personnel and medical files and similar files" if disclosure would constitute a "clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). The phrase "similar files" covers any agency records containing information about a particular individual that can be identified as applying to that individual. *See United States Dep't of State v. Washington Post Co.*, 456 U.S. 595 (1982). To determine whether releasing records containing information about a particular individual would constitute a clearly unwarranted invasion of personal privacy, we are required to balance the privacy interest that would be affected by disclosure against any public interest in the information. *See United States Dep't of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749 (1989).

Exemption (b)(7) protects from disclosure "records or information compiled for law enforcement purposes" if the records fall within one or more of six specific bases for withholding. 5 U.S.C. § 552(b)(7). Exemption (b)(7)(C) protects law enforcement records if their release could reasonably be expected to constitute an unwarranted invasion of personal privacy. It is regularly applied to withhold references to individuals in law enforcement files. The "law" to be enforced within the meaning of the term "law enforcement purposes" includes both civil and criminal statutes as well as those statutes authorizing administrative proceedings. *See, e.g., Jefferson v. DOJ*, 284 F.3d 172 (D.C. Cir. 2002).

As amended in 2016, the FOIA provides that a federal agency may withhold responsive records only if the agency reasonably foresees that disclosure would harm an interest protected by one of the FOIA's nine enumerated exemptions or if disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A)(i). In this case, I have considered the reasonably foreseeable harm posed by release and have determined that partially withholding information related to the other party and Government employees involved in this matter is necessary. This information implicates a privacy interest which is not outweighed by the public interest in this case. I have taken reasonable steps to segregate and release nonexempt information.

Our search for records included files maintained by the Naval Support Activity Washington Fleet and Family Support Center. There are no fees associated with processing your request.

As your FOIA/PA request is partially denied, you are advised of your right to appeal this determination by submitting an appeal to the Office of the Judge Advocate General (Code 14) using FOIA online at <https://foiaonline.gov> (the preferred method), or in writing to: Office of the Judge Advocate General (Code 14), 1322 Patterson Ave, SE, Ste 3000, Washington Navy Yard, DC 20374-5066. Your appeal must be postmarked within 90 calendar days from the date of this letter. As the requester, you have the burden of proving timely submission of any appeal. A copy of your initial request and this letter should accompany the appeal. In order to expedite the appellate process and ensure full consideration of your appeal, your appeal should contain a brief statement of the reasons you believe this decision to be in error.

For this determination, you have the right to seek dispute resolution services from the Department of the Navy FOIA/PA Public Liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or (703) 697-0031. You may also seek dispute resolution services from the Office of Government Information Services (OGIS), the Federal FOIA/PA Ombudsman's office, at (202) 741-5770 or ogis@nara.gov.

If you have any questions regarding the processing of your request, you may contact the Naval District Washington FOIA/PA liaison at CNI.NDWFOIA@navy.mil.

Sincerely,



J. M. KENNEDY
Commander, U.S. Navy
Judge Advocate General's Corps
Staff Judge Advocate

Enclosure